

**RECEIVED  
CENTRAL FAX CENTER****MAR 01 2005****PATENT/Docket No. PC11050A  
Serial No. 09/989933  
Page 1****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Art Unit : 1648  
Examiner : Shanon A. Foley  
Applicant(s) : Xuemei Cao and Gabrielle M. Zybarth  
Serial Number : 09/989933  
Filed : November 21, 2001  
For : Attenuated Forms of Bovine Viral Diarrhea Virus

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO OFFICE ACTION DATED OCTOBER 5, 2004**

Dear Sir:

This paper is filed in response to an Office Action mailed on October 5, 2004 the statutory period for response to end **January 5, 2005**.

**EXTENSION OF TIME**

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply. Applicant hereby petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for **two months** bringing the period for timely response **March 5, 2005**. In a separate paper authorization is hereby made to charge the amount of \$450.00 to Deposit Account No. **21-0718**. If an additional extension and/or fee is required, please charge Account No. **21-0718**

**RESPONSE**

**Amendments to the Specification** Amendments to the specification begin on page 2 of this paper.

**Amendments to the Claims** The state of the currently pending claims are reflected in the listing of claims which begins on page 3 of this paper. Claims 1-29 have been cancelled. New claims 30- 59 are now pending in the application.

**Remarks/Arguments** begin on page 8 of this paper.

FORM PTORSP  
Rev. 5/1/03

**BEST AVAILABLE COPY**

RECEIVED  
CENTRAL FAX CENTER

MAR 01 2005

PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/989933	
	Filing Date	November 21, 2001	
	First Named Inventor	Xuemei Cao	
	Art Unit	1648	
	Examiner Name	Shanon A. Foley	
Total Number of Pages in This Submission	17	Attorney Docket Number	PC11050A

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Statement of Biological Culture Deposit
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	Copy of ATCC Certificate
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Edward F. Rehberg, Registration Number 34,703
Signature	<i>Edward F. Rehberg</i>
Date	3-1-05

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Typed or printed name	Valerie L. Schipper
Signature	<i>Valerie L. Schipper</i>
Date	3-1-2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

BEST AVAILABLE COPY

**RECEIVED  
CENTRAL FAX CENTER**

3- 1-05; 2:04PM; PHARMACIA

PTO CENTRALIZED

; 2698332316

# 2 / 17

**MAR 01 2005**

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0851-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# **FEE TRANSMITTAL For FY 2005**

☐ Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT (\$)** \$800.00

**Complete if Known**

Application Number	09/989933
Filing Date	November 21, 2001
First Named Inventor	Xuemei Cao
Examiner Name	Shanon A. Foley
Art Unit	1648
Attorney Docket No.	PC11050A

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 210718 Deposit Account Name: Pharmacia and Upjohn Co.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 20 or HP = <u>7</u>	x <u>\$50.00</u>	= <u>\$350.00</u>
HP = highest number of total claims paid for, if greater than 20.		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 3 or HP = _____	x _____	= _____
HP = highest number of independent claims paid for, if greater than 3.		

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Extension of Time Request for 2 Months \$450.00

**SUBMITTED BY**

Signature <u>Edward F. Rehberg</u>	Registration No. (Attorney/Agent) <u>34,703</u>	Telephone <u>269.833.7829</u>
Name (Print/Type) <u>Edward F. Rehberg</u>	Date <u>3-1-05</u>	

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**BEST AVAILABLE COPY**